

Statement of James F. Sloan
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U.S. Department of the Treasury
before the
Subcommittee on Treasury, Postal Service, and General Government
House Committee on Appropriations

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Mr. Chairman, Congressman Hoyer, and members of the Subcommittee, thank you for this opportunity to appear before you today to discuss the Financial Crimes Enforcement Network's (FinCEN) fiscal year 2003 budget request. We greatly appreciate your ongoing consideration of our needs.

As everyone knows, the horrific events of September 11th changed our nation forever. That tragic day also changed FinCEN forever and the demand for FinCEN's services rose exponentially. Mr. Chairman, I would like to say how very proud I am of the men and women of FinCEN, who, like their colleagues throughout the government, have risen to the challenge and are making significant contributions in our nation's war against terrorism.

Last year was a pivotal year for FinCEN – the tragedy of September 11th brought about a greater recognition of, and appreciation for, our unique network and analytical expertise in the areas of financial crime and terrorist financing. Moreover, the USA PATRIOT Act of 2001 codified FinCEN as a bureau and added numerous responsibilities and accelerated deadlines in the regulatory area. In addition, we continued our Money Services Businesses (MSBs) outreach program and implemented the registration and suspicious activity reporting requirements, effective at the end of last year.

My statement today will elaborate on these and other ways in which FinCEN is supporting the September 11th investigation and carrying out the agency's most immediate obligations under the USA PATRIOT Act. I will then focus on our FY 2003 budget request and the accomplishments we have achieved in FY 2001.

FinCEN's Top Priority – Supporting Counter-Terrorism Investigations

Prior to the terrorist attacks of September 11th, FinCEN's Intelligence Liaison Office had been analyzing Bank Secrecy Act (BSA) information in support of law enforcement investigations into terrorist financing. On September 13th, FinCEN's expertise in money laundering and financial crime was recognized and we were requested by law enforcement to provide immediate assistance to the investigation. The agency was well positioned to act quickly to this request. FinCEN's mission and its programs

already had been designed to provide exactly the type of comprehensive, interagency information sharing and support that is now needed in this nation's war against terrorism.

Because of our existing infrastructure, FinCEN was able to immediately implement several new initiatives and enhance core programs to assist in this investigation. With our workforce of less than 300 FinCEN employees, contractors, and detailees, these additional demands placed a significant strain on our ability to perform day-to-day mission-related activities. We directed approximately 30 percent of our resources to the initial investigation and these efforts included:

Establishing a 24-Hour Operation Center to coordinate investigative requests and responses which included enhanced on-site liaison with the FBI Counter-terrorism Center and the U.S. Customs Service's Operation Green Quest;

Establishing a Toll-Free, 24-Hour Hotline for financial institutions to report suspicious transactions that might relate to terrorist activity, thus making the information available to law enforcement in real time;

Facilitating a Multi-Agency Effort using our specialized tools and secure facility. FinCEN was called upon to make its secure facility available to the Foreign Terrorist Asset Tracking Center (FTAT) as a temporary measure. Aside from logistical assistance provided to the FTAT, FinCEN's importance to FTAT lies in our ability to network agencies having common investigative interests, the information contained in our BSA databases, and in the human and technological expertise used in manipulating financial data to identify relationships between people, places, organizations, and financial transactions; and,

Enhancing International Cooperation Efforts with other nations' Financial Intelligence Units (FIUs) to share information and work together on joint analytical projects. These specialized agencies, created by governments to fight money laundering, first met in 1995 at the Egmont-Arenberg Palace in Belgium. Now known as the Egmont Group, FIUs meet annually to find ways to cooperate, especially in the areas of information exchange, training, and the sharing of expertise. In October 2001, FinCEN hosted a special meeting of the Egmont Group on terrorist financing to support the unprecedented law enforcement investigation in the wake of the events of September 11th.

Before I proceed with my statement, I would like to thank you and members of this Subcommittee for the support that was provided to FinCEN in the Homeland Security Emergency Supplemental. The \$1.7 million and 9 FTE gave FinCEN the funding necessary to cover our expanded responsibilities in the wake of the terrorist attacks of September 11th.

USA PATRIOT Act of 2001

Congress recognized the need to expeditiously make additional tools available to law enforcement to fight money laundering and terrorist financing by passing the USA PATRIOT Act (the Act). On October 26th, the President signed this landmark bill into law. Title III of the Act provides FinCEN with new authorities and opportunities to augment our primary mission to support law enforcement investigative efforts and foster interagency cooperation against domestic and international financial crime.

In fact, FinCEN is responsible for implementing 23 of the 44 provisions contained in Title III and also has a key role in many of the working groups established by Treasury to address the other provisions. Fortunately, many of the 23 provisions reaffirmed, and in some cases, codified many programs and initiatives that were already in place or under discussion at FinCEN. Briefly, I would like to provide the Subcommittee with a short summary of the progress FinCEN has made to date on implementing some of these provisions.

Cooperative Efforts to Deter Money Laundering

Section 314 of the Act requires that the Treasury Department promulgate regulations, within 120 days, to encourage further cooperation among financial institutions, their regulatory authorities, and law enforcement to share information with financial institutions on individuals, entities, etc., that are reasonably suspected to be engaged in terrorism or money laundering.

On February 25th, the Secretary approved an interim final rule immediately implementing information sharing procedures between financial institutions that are designed to enhance the institutions' ability to identify and report to the federal government instances of terrorism or money laundering. The interim final rule requires financial institutions that wish to share information with one another to provide a yearly certification to FinCEN, which can be accomplished through our web site. The certification requires participants to protect the confidentiality and security of shared information and use the information solely for identifying and reporting suspected terrorism or money laundering.

At the same time, the Secretary approved the issuance of a notice of proposed rulemaking of a regulation designed to establish a link between federal law enforcement and financial institutions so that vital information about terrorism and money laundering can be quickly and efficiently exchanged between them. The proposed rule uses the communications resources and networking ability of FinCEN to quickly locate the accounts of persons and entities engaged in such illegal activity. Federal law enforcement will provide the identities of suspected terrorists and money launderers to FinCEN, which will distribute the information to financial institutions to check for accounts and transactions. Any matches found will be immediately transmitted to law enforcement for appropriate follow up. The rule is intended to formalize and streamline the information sharing and reporting process the federal government undertook

following the attacks of September 11, 2001, by permitting FinCEN to serve as a conduit for information sharing between federal law enforcement agencies and financial institutions.

Bureau Status for FinCEN

Section 361 of the Act establishes FinCEN as a bureau within the U.S. Department of the Treasury. Codification of bureau status also reflects the Congress' recognition that FinCEN is a small but highly effective government agency that should be put on equal footing with the other Treasury bureaus. FinCEN has now been given full administrative authorities associated with such status. For example, bureau status allows for the acceleration and streamlining of the hiring and procurement process.

Electronic Filing of BSA Reports

Section 362 of the Act requires FinCEN to develop a highly secure network to allow financial institutions to file BSA reports and to supply financial institutions with alerts and other information regarding suspicious activities that warrant immediate and enhanced scrutiny. FinCEN has been working to implement this requirement and has awarded a contract for the prototype and pilot. We expect the pilot program to be completed in late summer.

Law Enforcement Access to Currency Reports by Non-Financial Businesses (Form 8300)

Section 365 of the Act requires that the Treasury Department prescribe new regulations for filing currency reports by non-financial businesses with FinCEN. (Before the Patriot Act became law, the Internal Revenue Service (IRS) was required to collect Form 8300 information under Section 6050I of the Internal Revenue Code. This information was considered tax return information and was not readily available to law enforcement.) FinCEN has worked diligently with Treasury to issue these new regulations and on December 20, 2001, an interim rule and a companion notice of proposed rulemaking were issued. As of February 20th, FinCEN began receiving the 8300 data from IRS.

Our FY 2003 budget request will allow FinCEN to continue its efforts to support law enforcement investigations to prevent and detect money laundering, terrorist financing, and other financial crimes. We are very appreciative of the Committee's trust and continued support, which has enabled us to construct a cost-effective technological infrastructure. I would like to now discuss in detail our FY 2003 budget request and highlight our accomplishments in FY 2001.

Fiscal Year 2003 Budget Request

FinCEN has a unique combination of law enforcement and regulatory responsibilities. As Director, I can assure you that FinCEN will continue to explore

creative ways to effectively leverage its resources. Given the uncertain resource implications of the USA PATRIOT Act, this approach will be essential to our success.

In FY 2003, FinCEN is requesting \$52,289,000 and 254 full-time equivalents (FTE). This request includes \$1 million and 8 FTE to begin to meet the challenges of the USA PATRIOT Act. Also included in this request is \$2.1 million to allow FinCEN to continue operations at the current level, and \$400,000 and 8 FTE to provide us with the funding necessary to continue the 17 new positions approved in the Homeland Security Emergency Supplemental.

Now I would like to highlight the accomplishments FinCEN has achieved in fiscal year 2001. These milestones would not have been possible without the valuable counsel and funding the Subcommittee has provided to FinCEN over the years.

Fiscal Year 2001 Accomplishments

A. Supporting the Financial Aspects of Investigations

In FY 2001, federal, state and local law enforcement officials accessed BSA data directly through FinCEN's popular Gateway and Platform programs to support more than 9,000 investigations. FinCEN analysts used BSA data to support over 4,000 investigations – an increase of 10 percent over FY 2000. I would now like to briefly highlight some of these key programs that serve our principle partners – the law enforcement, regulatory and international communities.

Gateway Program

One of our flagship programs, the Gateway program, continues to demonstrate its effectiveness in saving investigators time and money because participating agencies can conduct their own research and not rely on the resources of an intermediary agency to obtain financial records. Using the Gateway process, state, local, and, more recently, federal law enforcement agencies can search records such as Currency Transactions Reports (CTRs), Suspicious Activity Reports (SARs), and Reports of International Transportation of Currency or Monetary Instruments (CMIRs) to aid them in their investigations. Form 8300 is now available to law enforcement through Gateway access.

We are constantly making technological upgrades to Gateway to include enhanced security and monitoring processes. FinCEN audits the Gateway process through both record reviews and on-site visits to ensure that all inquiries are connected to actual or potential criminal violations.

One of the most outstanding and useful features of this system is its "alert" mechanism that automatically alerts FinCEN that two or more agencies have an interest in the same subject. In this way, FinCEN is able to assist federal, state and local law enforcement agencies in coordinating their investigations among themselves. Last year,

there were over 1,500 opportunities for networking investigations that originated from the Gateway inquiries.

Last month, we hosted the Gateway Coordinators Conference to provide an overview of FinCEN and the variety of services available to state and local law enforcement. The conference was attended by 65 coordinators from the U.S. and Puerto Rico, and several gave informative presentations on how Gateway has assisted them in their investigations.

Platform Program

FinCEN's Platform Program, one of our most valuable law enforcement services, enables federal agencies to send their representatives to FinCEN to use its databases and receive technical assistance. These individuals know the needs of their organization and can support that need directly through database access. FinCEN pioneered the Platform program in 1994, and it has grown steadily. In FY 1997, Platform had 49 participants. By FY 2001, participation had grown to nearly 80 participants from approximately 40 agencies.

Analytical System for Investigative Support (ASIS)

Last year we introduced you to ASIS, a case management software system developed by FinCEN that gives federal, state and local law enforcement officials the ability to make sense of the information they gather through their investigations. FinCEN continues to use ASIS successfully to support major investigations. Immediately after September 11th, we used ASIS to check activities surrounding the hijackers, and presented the analytic charts at meetings with the FBI. The ASIS data was a helpful beginning. We have continued to use ASIS to assist the FBI in analyzing the large volumes of data from the National Drug Intelligence Center's Real-Time Analytical Intelligence Database (RAID). Additionally, ASIS has enabled our analysts to link FinCEN's other databases to RAID data. The linkages reveal connections to other information from financial records such as suspicious activity reports.

B. Identifying Financial Crime Trends and Patterns

FinCEN provides a unique capability to identify trends, patterns and national-level security issues, disseminate information on money laundering methodologies, and prepare geographic threat assessments associated with money laundering and other financial crimes.

In FY 2001, FinCEN, in conjunction with the financial, regulatory and law enforcement communities, began publishing a semi-annual report on the use and utility of suspicious activity reporting by financial institutions that includes current money laundering trends and patterns. [The USA PATRIOT ACT, Section 314, mandates FinCEN to report semi-annually on suspicious activity reporting.] FinCEN also disseminated 53 strategic analytical products covering money laundering methodologies,

trends and patterns, statistical reports, and geographic threat assessments, including the issuance in June 2001 of the Suspicious Activity Report Bulletin on activity related to phone card businesses. In addition, a Geographic Financial Crimes Threat Assessment Branch was established last year to enhance FinCEN's capability to produce strategic analyses, threat assessments, and financial lead information.

C. Administering the Bank Secrecy Act

FinCEN's regulatory mission -- administering the BSA -- serves as the foundation for FinCEN's ability to carry out our primary function of providing support to law enforcement investigations. As such, the strengthening and effectiveness of our regulatory program directly affects the quality and efficiency of FinCEN's efforts to serve its diverse and growing universe of customers. The effective administration of the BSA has been challenging on many fronts -- from the development of streamlined internal processes and industry-specific expertise, to the formation of an ever-widening circle of industry, regulatory, and law enforcement partnerships in order to obtain data of immeasurable value to law enforcement. We further challenge ourselves by achieving these goals within the context of two unequivocal standards that influence all that we do at FinCEN -- maintaining appropriate privacy safeguards and minimizing burdens on the industry.

Although FinCEN was in the process of expanding certain provisions of the BSA to financial sectors beyond depository institutions, the urgency of this effort has been accelerated by the USA PATRIOT Act, and FinCEN has risen to the challenge. For example, we are working closely with the Securities industry to issue a broker/dealer SAR rule while simultaneously focusing on the MSB program with its extensive outreach component.

In FY 2001, FinCEN continued to work towards expanding its regulatory outreach efforts, responding to over 1,563 telephone inquiries, 129 publication requests, 115 written inquiries, and 91 e-mail inquiries. FinCEN also worked to draft regulations requiring the securities industry to establish programs to detect and report suspicious activity. These draft regulations were issued on December 20, 2001. In addition, FinCEN made tremendous progress in implementing the money services businesses (MSBs) regulations. A short synopsis follows on this progress.

Money Services Businesses (MSBs)

The term MSBs is used to denote the sub-group of non-bank financial institutions comprised of money transmitters, issuers of traveler's checks or money orders, sellers or redeemers of traveler's checks or money orders, check cashers and currency dealers or exchangers.

As the Subcommittee is aware, FinCEN's regulatory program to register and require MSBs to report SARs has been and continues to be a significant undertaking.

The support and funding provided by the Subcommittee has been crucial to the development and implementation of this mandated initiative.

FinCEN, in general, has proceeded very deliberately with its MSB regulatory program. We have taken this approach for a number of reasons: (1) MSBs have not been regulated at the federal level and therefore it will take time to identify and understand the various MSB sectors and how they operate; (2) many MSBs are small and serve diverse communities making the task of shaping appropriate regulatory programs even more complex; and, finally (3) because of the absence of a federal regulatory infrastructure, developing a positive working relationship like the one which currently exists between regulators and the depository institutions will take time.

Because the education process is so important, FinCEN had been considering moving the effective dates of the regulations back several months allowing more time to reach out to this community which could number upwards of 200,000 entities versus the smaller universe of approximately 21,000 depository institutions with which we have traditionally worked. Following the attacks of September 11th, however, we felt it was imperative that the effective dates remain unchanged. The potential value of the information that MSBs could provide to law enforcement was too significant to delay the implementation of the regulations. As a result, the first regulation requiring the principals of all MSBs to register by December 31, 2001, and the second, requiring money transmitters, issuers and sellers of traveler's checks and money orders and the U.S. Postal Service to report suspicious activity transactions effective January 1, 2002 went into effect on these dates as scheduled.

Fortunately, to ensure that MSBs are familiar with these new requirements and to develop better demographics about who and where many of the smaller, independent MSBs are located, we had already conducted an extensive education program. This effort resulted in an excellent registration response. More than 80 percent of the total universe of 10,745 MSB principals, required to register, had responded within the first two weeks of January and initial SAR filings indicate our efforts are paying off. FinCEN, in conjunction with Burson Marsteller, will continue this outreach effort throughout the coming year.

Finally and importantly, we are working closely with the IRS' Office of Examination to reinforce and build on this effort to alert all MSBs to their registration and reporting obligations. In addition, FinCEN has developed a new dedicated MSB website (www.msb.gov) to provide guidance, forms and other information to assist industry in complying with the rules.

D. Fostering International Cooperation

FinCEN's steady, persistent efforts to promote global cooperation are one of this agency's greatest success stories. The financial intelligence unit (FIU) network, which FinCEN has been at the forefront in helping to promote, has grown from a handful in 1995 to the current membership of 58 countries.

In FY 2001, FinCEN coordinated 435 investigative information exchanges with 67 foreign jurisdictions, including support for 114 domestic law enforcement cases. We provided technical assistance to 22 countries to include extensive training courses and review of draft anti-money laundering legislation and hosted visits by law enforcement agencies or diplomatic representatives from over 53 countries. In addition, FinCEN drafted the chapters on the state of anti-money laundering programs in all of the 95 countries included in the State Department's Annual International Narcotics Control Strategy Report. Lastly, FinCEN issued numerous Advisories in conjunction with the Financial Action Task Force (FATF) and the G-7.

E. Strengthening Management Support

Information Technology

As the Committee is aware, FinCEN's effectiveness is based upon our emphasis on networking. This "networking" capability is crucial to the fulfillment of our information gathering and sharing mission. The creative use of technology is an essential component to the successful execution of our mission. For example, tools such as the Secure Outreach Network and advances in data mining applications allow FinCEN to strengthen its network capability and produce sophisticated analytical products.

In FY 2001, FinCEN, taking advantage of emerging technologies, significantly expanded the Secure Outreach Network's access capability to BSA data via the Internet. More than 300 federal, state, and local Gateway customers are now participating in the system that is known as the Secure Outreach Direct-Net. To ensure the widest use of the Secure Outreach Network, FinCEN also has a dial-up capability for those entities without access to the Internet. Over the next year, FinCEN envisions an even greater increase in user participation in this system as we continue to explore and make use of the most efficient technological options.

In our ongoing efforts to explore various data mining techniques, FinCEN recently completed a 90-day pilot program on new, state-of-the-art software for link analysis. We have been extremely encouraged by the results of this pilot and by the end of FY 2003, we plan to incorporate all BSA data into the system.

President's Management Agenda

FinCEN supports the President's Leadership Initiatives and participates on a number of working groups. As you know, the Treasury Department has outlined strategies to meet the President's goals for human capital, e-government, competitive sourcing, financial management, and budget/performance integration. FinCEN will perform a self-assessment over the next few months to further refine areas that need improvement. As we move forward to implement the newly acquired administrative authorities granted by bureau status, the strategies mentioned above provide a basis for

examining our administrative processes to develop the best mix between in-house services and competitive sourcing with other federal agencies.

Lease Renewal

Lastly, as I discussed with this Subcommittee last year, FinCEN is facing a lease renewal. Our current 10-year lease will end in April 2003 on the space we occupy in Vienna, Virginia. FinCEN has been working over the past year with the General Services Administration (GSA) and they advise us that a competitive solicitation will be issued this spring for a lease renewal, with an award expected in late summer or early fall of this year. In addition to issuing the solicitation, GSA has been working on a security threat assessment of our facilities and if additional security enhancements are needed, these requirements will be included in the solicitation.

Conclusion

On November 7, 2001, FinCEN was greatly honored with a visit by President George W. Bush, Secretary of State Colin Powell, Attorney General John Ashcroft, and Treasury Secretary Paul O'Neill. The fact that the leaders of our country took time out of their demanding schedules to personally thank the men and women of FinCEN for their contribution to our nation's war on terrorism was a great tribute to all the hard work of our dedicated employees. In turn, I would like to thank this subcommittee for its unfailing support of FinCEN over the years. Without such support, FinCEN could not have progressed so far nor been nearly as effective. We respectfully request your continued support as we work with other federal agencies to fight terrorism, conduct our core business activities, and implement the USA Patriot Act. Thank you.